

## Merritt, Allen

---

**From:** Merritt, Allen  
**Sent:** Tuesday, January 14, 2003 8:04 AM  
**To:** Young, Norm  
**Cc:** Luke, Tim  
**Subject:** WD 37 & 37M Meeting

As you know I attended the water district meeting held yesterday in Shoshone at the Masonic Lodge. This message is intended to document those proceedings.

Prior to the meeting in a telephone call Lee Peterson indicated that he had been told by the Big Wood Canal Co. board that they were not going to vote to renew him as watermaster

At the meeting Jerry Nance was elected chairman. They approved the 2002 minutes and their accountant summarized his report on the books with the members present. They accepted his report and voted to retain his services for next year.

They discussed the method of voting at the meeting and Mike Faulkner motioned to vote by money. There was discussion about that being not representative of the water users and discussion of how many credentials committee people needed to be appointed. I provided the code book and Mr. Nance read the section about voting. Ultimately they did not vote on Faulkner's motion but appointed three people to review budget numbers to determine who had what vote. The committee met for a while and came back with an indication that the budget numbers appeared acceptable and that BWCC could control the vote in both 37 and 37M districts.

There was some indication of dissatisfaction with things that happened last year.

Mr. Nance gave a brief report on the Silver Creek Wetlands issue. He indicated that:

- They had filed for a permit to do the work but IDWR indicated they didn't need one. (During this discussion there was an indication that Lee had written "Boise" for clarification but never received a response.)

- They had a backhoe in by a private contractor to do some work.

- They then had an excavator in from the BWCC to finish up.

- They were issued a citation.

- They met with EPA.

- They have completed the work to correct the damage.

- EPA is requesting a \$137,000 fine.

- They have hired Bruce Smith as an attorney, and Ray Cagel (ex Corp employee) and Chuck Brockway to help them with this matter.

- The issue with EPA has not been resolved (fines) and that the advisory board wishes to "dig in their heels and not pay large fines" but instead to possibly go to court.

- Described IDWR stance that watermaster and WD should not be agents in doing this work. Mr. Nance asked Lee for the letters of instruction that had been sent him. Lee looked for these but couldn't find his copies so I provided them the file I had. Mr. Nance read aloud Karl's 9/17/2002 letter.

There was general dissatisfaction expressed by Mike Faulkner and he categorized it as "The department washed their hands of this matter". He blamed Karl for not taking a strong stand for water users and indicated that they had written letters to the governor's office. They made a motion to have the advisory board to draft a letter in opposition to Karl's letter which passed.

They continued their discussion and talked about potential costs to litigate, etc. One person spoke about toning back and exploring resolution with EPA by offering something more than just repairing the work. Nick Purdy indicated that they had sort of done that by discussing converting the WR on the subject property to divert it all the time to maintain the wetland but indicated that the Corp or EPA had dismissed this a too little. He described that the EPA attorney had told him that their only tool is high fines to make examples of people. He indicated that Mr. Cagel was advising them they had a good argument and that the Corp should not have issued a violation since they were maintaining old dikes, etc. They talked about projected cost of this matter and Mr. Nance indicated they just didn't know at this point. They talked about financing these costs. The asked me how that might be handled. Ted Diehl mentioned the Board's loan program and I said they could probably apply. Mr. Nance indicated that they preferred a grant. (I don't know if a loan is even possible....I suggest Mr. Nance or Lee be contacted before the next meeting.)

They turned there attention to adopting the budget and other resolutions. They decide to adopt everything except the resolution to hire Lee

A discussion ensued regarding any particular problem with Lee. Many expressed their dissatisfaction with the BWCC and their handling of this matter. Many thought that if there was a problem that the advisory board should have been involved and issues that needed correcting identified. Many indicated a change in watermaster with a potential lawsuit with EPA is not wise. Purdy and others asked the BWCC members what exactly was the problem. They were kind of closed mouth about this but Faulkner indicated that they were concerned about responses Lee had provided them when asked about how he was delivering their water through the system.

Bill Arkoosh got up and indicated he would not support Lee. He wanted me to get up and describe the problems I had had. I eventually responded by saying that our office had a good working relationship with the Lee and that during the summer with the drought conditions the department had provided direction to Lee on occasion on issues related to Arkoosh's complaint and on issues involved with delivery of "saved water" in the Big Wood and on issues with storage of water on Magic and Mormon Reservoir. I indicated that delivery of water in a district is often difficult particularly in a drought and can be somewhat an art and not just based on a scientific number. It told them that as far as I knew the issues identified had been addressed by Lee and the matters resolved. I indicated it was not my place to sway anyone's vote and that the department would continue a good working relationship with Lee or anyone else the members would choose to elect.

Discussion continued but Nick Purdy made a motion to adjourn the meeting before electing the watermaster to give the BWCC time to consider input from the waterusers other than the BWCC. Before the motion was considered the BWCC members requested a break to caucus. At that point I called the SO and talked with Norm Y and John H about notice for a second meeting. It was determined that if it was a special meeting then two weeks notice needed to be provided. If the meeting was just continued or recessed then it might be appropriate but John suggested some sort of notice be published. On returning to the meeting I discussed the matter with Mr. Nance. Mr. ~~talked~~ with Purdy and Mr. Purdy amended his motion to continue the meeting until 9:00 am on the 21st of January in the same building. Norma Peterson agreed to have published a notice in Gooding, Lincoln and Blaine papers. The motion passed.

*Mr. Nance*